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**REMARKS**

This application has been reviewed in light of the Office Action mailed April 24, 2006. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 1, 2, 4, 5 and 7 – 35 are pending in the application with Claims 2, 4, 5, 8 – 11, 14, 17 – 20 and 26 – 30 have been previously withdrawn. By the present amendment, Claims 13 and 22 are amended. No new subject matter is introduced into the disclosure by way of the present amendment.

Initially, the Examiner has indicated that claims 7, 12, 16, 25, 31 and 34 contain patentably distinct subject matter and thus would be allowed if rewritten in independent form including all the limitations recited in the base claim and any intervening claims.

**I. Objection to Claims 13 and 22**

The Examiner has objected to claims 13 and 22 for several grammatical errors. Specifically, the phrase: "...the characteristic amount detected by the characteristic amount detecting device..." should be replaced with: "...a characteristic amount detected by a characteristic amount detecting device..." in order to resolve issues regarding antecedent basis. Additional such issues were found in claim 13 during review of the claims as well.

Regarding claim 22, the phrase: "...for switching the bit length of the image data to a plurality of lengths..." should be amended to recite: "...for switching the bit length of the image data to one of a plurality of lengths..."

In response, Claims 13 and 22 have been amended to correct the above-identified grammatical errors.

## II. Rejection of Claims 1, 13, 15, 21, 24 and 35 Under 35 U.S.C. § 103(a)

Claims 1, 13, 15, 21, 24 and 35 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Publication No. 2004/0092825 issued to Madar et al. in view of U.S. Publication No. 2002/0103417 issued to Gazdzinski.

Madar discloses determining a ratio of intensities at detectors behind red-brown and yellow-green filters and determining malignancy of a lesion based on whether the ratio crosses a threshold. Thus, Madar uses one criterion, i.e., the ratio of red-brown light to yellow-green light, to determine malignancy.

Conversely, Applicants' invention, as recited in independent claims 1 and 13, uses two separate criteria to determine validity of an image. Specifically, claims 1 and 13 utilize a first determining device to determine validity of an image based on a first amount of characteristics, which is based on the number of pixels having a specific color; and a second determining device to determine validity of the image based on a second amount of characteristics, which is different from the first amount of characteristics. Thus, in Applicants' claimed invention, a validity of an image is determined using two different criteria.

Gazdzinski does not disclose or suggest any means for determining validity, or malignancy, of an image. Therefore, Gazdzinski fails to properly overcome the deficiencies identified in Madar. Consequently, Madar and Gazdzinski, taken alone or in any proper combination, do not disclose or suggest Applicants' invention as recited in Claims 1 and 13. Claims 15, 21, 24 and 35 depend from independent Claims 1 and 13 and thus include all the limitations recited by those independent claims.

Therefore, for at least the reasons given above, Claims 1, 13, 15, 21, 24 and 35 are believed to be patentably distinct and allowable over the cited prior art references. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 1, 13, 15, 21, 24 and 35 under 35 U.S.C. § 103(a) over Madar et al. in view of Gazdzinski.

### **III. Rejection of Claims 22, 32 and 33 Under 35 U.S.C. § 103(a)**

Claims 22, 32 and 33 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Madar et al. in view of Gazdzinski and further in view of U.S. Patent No. 5,209,220 issued to Hiyama et al.

Hiyama does not disclose or suggest any means for determining validity, or malignancy, of an image. Consequently, Hiyama fails to properly overcome the deficiencies identified in Madar and Gazdzinski.

Therefore, for at least the reasons given above, Claims 22, 32 and 33 are believed to be patentably distinct and allowable over the cited prior art references. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 22, 32 and 33 under 35 U.S.C. § 103(a) over Madar et al. in view of Gazdzinski and further in view of Hiyama et al.

### **IV. Rejection of Claim 23 Under 35 U.S.C. § 103(a)**

Claim 23 is rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Madar et al. in view of Gazdzinski and further in view of U.S. Patent No. 6,945,928 issued to Kobayashi et al.

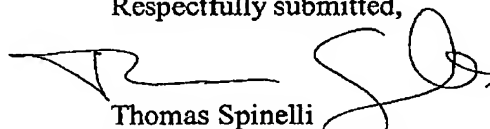
Kobayashi does not disclose or suggest any means for determining validity, or malignancy, of an image. Hence, Kobayashi fails to properly overcome the deficiencies identified in Madar and Gazdzinski. Therefore, for at least the reasons given above, Claim 23 is believed to be patentably distinct and allowable over the cited prior art references. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claim 23 under 35 U.S.C. § 103(a) over Madar et al. in view of Gazdzinski and further in view of Kobayashi et al.

### CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1, 7, 12, 13, 15, 16, 21 – 25 and 31 – 35 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



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